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In re Application of :
Rushbrooke et al. :
Application No. 10/501,616 :
PCT No.: PCT/GB02/00353 :
Int. Filing Date: 28 January 2002 : COMMUNICATION
Earlier Priority Date: None :
Atty. Docket No.: C1165.03/C :
For: X-Ray Inspection System And Method :

This is in response to the papers filed on 07 February 2005, which are being treated as a renewed submission under 37 C.F.R. 1.42.

DISCUSSION

In a decision mailed on 11 January 2005, the papers under 37 CFR 1.42 filed on 14 July 2004 were not accepted, without prejudice, because

Further examination of the declaration reveals that it includes the citizenship of the deceased inventor. However, it has not been signed on behalf of Mr. Rushbrooke by an heir(s) or legal representative(s), nor does it state the relationship of any such person to Mr. Rushbrooke, nor does it provide the mailing address, citizenship or residence of any such person as required by 37 CFR 1.497(b)(2). It is also not clear whether any legal representative has been appointed or is required by the applicable law to be appointed. As such, it would not be appropriate to accept the declaration pursuant to 37 CFR 1.42 at this time.

The instant renewed submission is accompanied by a declaration executed by Justin Rushbrooke as "Executor of the Estate of John Gordon Rushbrooke (deceased)." This declaration lists an address which counsel, in the "Renewed Submission...", attributes to the Executor. Counsel's attention is again called to 37 CFR 1.497(b)(2), as amended effective 08 September 2000, which provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.


The newly submitted declaration fails to comply with 37 CFR 1.497(b)(2) because it does not state "the facts which the inventor would have been required to state" (i.e., the former citizenship, residence and mailing address of John Gordon Rushbrooke), and because it does not state the citizenship of the executor. As such, it would not be appropriate to accept the declaration.


CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

Applicants must respond within **TWO (2) MONTHS** of the mailing date of this decision, extendable pursuant to 37 CFR 1.136(a). Any such reply should be entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.


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